

JUDGE BENJAMIN H. SETTLE

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	No. CR16-5246BHS
)	
vs.)	
)	ORDER ON MOTION TO
KENNETH P. DESCOTEAUX,)	CONTINUE TRIAL DATE
)	
Defendant.)	
)	

Before this Court is an unopposed motion to continue the trial date presently scheduled for March 14, 2017.

That on or about June 1, 2016, Mr. Descoteaux was arraigned on three counts of Aggravated Sexual Abuse of a Child in violation of 18 USC 2241(c), 2246(2)(B) and 7, one count of Abusive Sexual Contact with a Child in violation of 18 USC 2244(a)(5), 2246(3) and 7, and one count of Assault in violation of 18 USC § 113(a)(5) and (7). Mr. Descoteaux entered a not guilty plea to all charges.

1 At the time of arraignment, the Court set trial for July 26, 2016 and counsel
2 was appointed for Mr. Descoteaux. On July 5, 2016, trial was continued to
3 February 7, 2017 and on January 27, 2017, trial was continued to March 14, 2017.

4 A continuance is requested as counsel for the defendant was appointed on
5 March 3, 2017, and is due to commence trial in Pierce County Superior Court on
6 Monday, March 6, 2017, which trial is expected to last approximately two weeks.
7 Additionally, counsel understands that this case is a complicated case, and,
8 therefore, additional time is necessary to obtain and review discovery, to determine if
9 any motions need to be filed, and to meet with Mr. Descoteaux.
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11 AUSA Grady J. Leupold is aware of this motion and has no objection to this
12 request.

13 That the Court finds, after a consideration of all relevant information (including
14 the affidavit filed by Lance M. Hester in support of the motion for a continuance) and
15 the circumstances of this case, that without this continuance the defendant will be
16 prejudiced and the ability to properly prepare for trial would be impaired. (18 USC
17 §3161(h)(7)(B)(ii)). Failure to grant a continuance under these circumstances would
18 result in a miscarriage of justice (18 USC § 3161(h)(7)(B)(i)). The ends of justice
19 would best be served by the granting of the motion for continuance to ensure
20 continuity of counsel, adequate trial preparation and the defendant's interests in a
21 speedy trial (18 USC § 3161(h)(7)(a)). Taking into account the exercise of due
22 diligence, a continuance is necessary to allow the defendant reasonable time for
23 effective preparation of his defense and the ends of justice outweigh the best
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1 interests of the public and the defendant in having the matter brought to trial sooner.
2 (18USC 3161(h)(7)(B)(iv)).

3 For these reasons, the Court finds the defendant's motion for continuance
4 should be granted.

5 The trial date scheduled for March 14, 2017 is VACATED. Trial is
6 rescheduled for June 13, 2017 at 9:00 a.m. in Tacoma, Washington. Pretrial
7 motions are due by May 4, 2017. Pretrial Conference is set for June 5, 2017 at 2:00
8 p.m.

9 The period of delay resulting from this continuance from March 3, 2017, to the
10 new trial date of June 13, 2017, is hereby excluded for speedy trial purposes under
11 18 USC § 3161(h)(8)(A) and (B) for purposes of computing the time limitations
12 imposed by the Speedy Trial Act, 18 USC § 3161-3174.

13 IT IS SO ORDERED.

14 Dated this 8th day of March, 2017.

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BENJAMIN H. SETTLE
United States District Judge

21 HESTER LAW GROUP, INC., P.S
22 Attorneys for Defendant Crozier

23
24 /s/ Lance M. Hester

25 LANCE M. HESTER
WSB #27813